

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES JOSEPH LAWSON,

Plaintiff,

CASE NO. 1:09-cv-551

v.

HONORABLE PAUL L. MALONEY

SCOTT HOLMES, M.D., et al.,

Defendants.

/

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation (docket no. 60) filed by United States Magistrate Judge Joseph G. Scoville in this action. The Report and Recommendation was duly served on the parties. No objections have been filed.

ACCORDINGLY, the Report and Recommendation is hereby adopted as the opinion of the Court. Plaintiff's complaint is dismissed.

Because the plaintiff proceeds *in forma pauperis*, the Court must determine whether any appeal would be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997). Because no objections have been filed, the court concludes that an appeal would not be taken in good faith.

THEREFORE, IT IS ORDERED that the portion of defendant Holmes's motion seeking dismissal of plaintiff's complaint for failure to state a claim under Rule 12(b)(6) (docket no. 47) is **DENIED**.

IT IS FURTHER ORDERED that defendants' motions for summary judgment (docket nos. 33, 47) are **GRANTED** and all of Plaintiff's claims against defendants are **DISMISSED** **without prejudice** for failure to exhaust his available administrative remedies.

This action is terminated.

Dated: June 30, 2010

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge